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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,768	11/03/2003	Kumars Sakizadeh	86415JLT	4240

7590 04/08/2005
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EXAMINER

SCHILLING, RICHARD L

ART UNIT	PAPER NUMBER
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1752

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/699,768

Applicant(s)

SAKIZADEH ET AL.

Examiner

Richard L Schilling

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-25 is/are allowed.
- 6) ☐ Claim(s) 1-8, 10-22, 26-29 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11-03-03 * 3-7-05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) The invention was described in (1) an application for patent, published under Section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the

invention was made.

Claims 1-8, 11-22, 26, 28 and 29 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hiller. Hiller (see particularly column 2, lines 15-44; column 5, lines 9-65; column 6, lines 10-65; column 14, line 52 - column 15, line 10) discloses thermographic or photothermographic elements containing organic silver salts of carboxylic acid and zinc acetate. The zinc acetate is disclosed as being in elements containing protective layers wherein the zinc acetate is in the protective layers. If Hiller do not anticipate the instant claims, then it would at least be obvious to one skilled in the art to use the zinc acetate of Hiller in the anti-abrasion outcoats disclosed in Hiller at concentrations disclosed for zinc acetate.

2. Claim 27 is rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Hiller and Bauer et al.

'102. Hiller discloses forming silver images from photothermographic elements comprising silver halide and organic silver salts wherein the elements include elements comprising top coats with zinc acetate as explained in paragraph 1 above. Since Bauer et al. (see particularly column 32, lines 14-41) disclose that silver images formed from photothermographic elements comprising silver halide and organic silver salts, as in Hiller,

can be used as photo masks, it would be obvious to one skilled in the art to use the silver images formed in Hiller as photo masks.

3. Claims 1, 2, 4-6, 10-20, 26 and 29 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Harai et al. '723. Harai et al. (see particularly column 3, line 20 - column 4, line 55; column 9, lines 20-44; Example 1) discloses photothermographic elements containing silver halide and organic silver salts of carboxylic acids. Harai et al. discloses that their elements contain base precursors comprising zinc hydroxide or manganese hydroxide and also water soluble metal salts including zinc acetate. These metal salt base precursors may be used in protective overcoat layers over the layers comprising silver halide and organic silver salts. In Example 1, zinc hydroxide is used in a gelatin overcoat overlayer containing silver carboxylate salts. If Harai et al. do not anticipate the instant claims, then it would at least be obvious to one skilled in the art to use the zinc and manganese hydroxide base precursors in the overcoats of Harai et al. along with the zinc acetate in the concentration ranges for the zinc and manganese hydroxide and zinc acetate. It would also be obvious to one skilled in the art to vary the concentrations of the organic silver salts in Harai et al. within their

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disclosed ranges. The zinc hydroxide, manganese hydroxide and zinc acetate of Harai et al. would inherently scavenge reaction by-products of the elements in Harai et al.

4. Rao et al. and Hunt are cited of interest in the art as disclosing photothermographic elements containing barrier top coats. The prior art cited by applicants has been considered.

5. Claim 9 is objected to as depending on a rejected claim but would be allowable if written in proper independent form.

6. Any inquiry concerning this communication should be directed to Mr. Schilling at telephone number (571) 272-1335.

RLSchilling:cdc

March 2, 2005

RICHARD L. SCHILLING
PRIMARY EXAMINER
GROUP 400 1752

